

REMARKS/ARGUMENTS

Claims 1, 3-4, 6, 8, 11-15, 17, 20-24, and 27-30 are pending. By this Amendment, claims 6, 11-12, and 14 are amended, and claims 10 and 18 are canceled without prejudice or disclaimer. No new matter is added. Support for the claims can be found throughout the specification, including the original claims, and the drawings. Reconsideration in view of the above amendments and following remarks is respectfully requested.

The Examiner is thanked for the indication that claims 20-24 and 27-30 are allowed, and that claim 12 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. However, for the reasons set forth below, claim 12 has not been rewritten in independent form at this time.

The Office Action rejected claims 14-15, and 17-18 under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter. The rejection is respectfully traversed.

The Examiner asserts that “[t]he mediums intended by the applicant apparently include code segments transported over a carrier wave, which is not tangible.” However, the Examiner is referred to paragraphs [0051]-[0052] of the present application which state:

[0051] Various software or firmware layers based upon a module or routine format containing application programs, operating system modules, device drivers, BIOS modules and interrupt handlers can be stored in at least one storage medium provided in the digital audio system. The applicable storage media include hard disc drives, compact discs (CDs) or digital versatile discs (DVDs), floppy discs, nonvolatile memories and system memories. The modules, routines or other layers stored in the storage medium contain

instructions for allowing the convertible computer system to execute programmed acts when executed.

[0052] The software or firmware layers can be loaded on the system by one of various methods. For example, code segments are stored in floppy discs, CD or DVD discs or hard discs, or code segments transported through a network interface card, modem or other interface devices can be loaded on the system and can be executed by a corresponding software or firmware layer. In the loading or transporting process, the code segments and data signals carried by a carrier (through a telephone line, a network line, a radio link, a cable, etc.) can be sent to the system.

In particular, paragraph [0052] recites that "code segments are stored in floppy discs or hard discs, or code segments transported through a network interface card, modem or other interface devices can be loaded on the system." In such case, the machine-readable storage medium would be, for example, a storage medium in a digital audio system, not a carrier wave as asserted by the Examiner.

Accordingly, the rejection of claims 14-15 and 17-18 under 35 U.S.C. §101 should be withdrawn.

The Office Action rejected claims 1, 3-4, 6, 8, and 10-11 under 35 U.S.C. §102(b) as being anticipated by Replay Gain. The rejection is respectfully traversed.

Independent claim 1 recites a method for recording/managing audio level information, comprising partitioning an audio file into a header information area, an audio data area, and a tag information area; recording an audio level information in the tag information area, the audio level information indicating an output level of audio data to be reproduced; and recording an audio level flag information in the header information area, the audio level flag information

indicating whether the audio level information has been recorded in the tag information area. Replay Gain does not disclose or suggest all of such features, or the claimed combination of independent claim 1. That is, Replay Gain does not disclose or suggest “recording... an output level of audio data to be reproduced,” but rather, merely teaches storing a track relative volume adjustment, which is actually a difference between a level of the audio data and a standard volume of 83dB.

Independent claim 6 has been amended to recite, *inter alia*, wherein the adjusting comprises comparing the checked audio level information with a predetermined reference level; adjusting a gain of the audio data to be reproduced in accordance with the comparison result and an audio volume level set by a user; and amplifying and outputting the audio data to be reproduced, at the adjusted gain. Replay Gain does not disclose or suggest all of such features, or the claimed combination of independent claim 6. Rather, Replay Gain discloses that changing the level of an audio signal simply means multiplying each sample value by a constant value and the constant is given by: $\text{scale} = 10.^{(\text{reply_gain}/20)}$.

Accordingly, the rejection of independent claims 1 and 6 over Replay Gain should be withdrawn. Independent claims 3-4, 8, and 11, as well as objected to claim 12, are allowable over Replay Gain at least for the reasons discussed above with respect to independent claims 1 and 6, from which they respectively depend, as well as for their added feature.

The Office Action rejected claims 13-15 and 17-18 under 35 U.S.C. §103(a) as being unpatentable over the Replay Gain website in view of screenshots taken from Winamp V2.6 (hereinafter "Winamp"). The rejection is respectfully traversed.

Claim 13 is allowable over Replay Gain at least for the reasons discussed above with respect to independent claim 6, from which it depends, as well as for its added features. Winamp fails to overcome the deficiencies of Replay Gain, as it is merely cited for allegedly teaching playback of MP3 files. Accordingly, the rejection of claim 13 over Replay Gain and Winamp should be withdrawn.

Independent claim 14 has been amended to recite, *inter alia*, wherein the instructions cause the system to compare the checked audio level information with a predetermined reference level; adjust a gain of the audio data to be reproduced in accordance with the comparison result and an audio volume level set by a user; and amplify and output the audio data to be reproduced, at the adjusted gain. Replay Gain does not disclose or suggest all of such features, or the claimed combination of independent claim 14. Rather, as set forth above, Replay Gain discloses that changing the level of an audio signal simply means multiplying each sample value by a constant value and the constant is given by: $\text{scale} = 10^{(\text{reply_gain}/20)}$.

Accordingly, the rejection of independent claim 14 over Replay Gain and Winamp should be withdrawn. Dependent claims 15 and 17-18 are allowable over Replay Gain and

Serial No. **10/809,684**
Amendment dated June 16, 2008
Reply to Office Action of March 17, 2008

Docket No. **LT-0055**

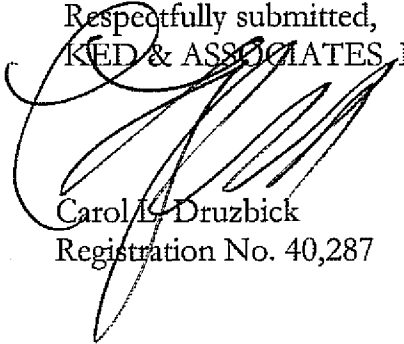
CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance. If the Examiner believes that any additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney at the telephone number listed below.

In view of the foregoing amendments and remarks, it is respectfully submitted that this application is in condition for allowance. Favorable consideration and prompt allowance are earnestly solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,
KED & ASSOCIATES, LLP


Carol L. Druzbeck
Registration No. 40,287

P.O. Box 221200
Chantilly, Virginia 20153-1200
703 766-3777 CLD:tlg
Date: June 16, 2008
\\Fk4\Documents\2031\2031-053\161878.doc

Please direct all correspondence to Customer Number 34610